

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

ABNER CLARK MACKEY,	:	
	:	
Plaintiff	:	
	:	
VS.	:	
	:	
Warden ALEXIS CHASE, <i>et al.</i> ,	:	NO. 7:06-cv-12(HL)
	:	
Defendants	:	<u>ORDER</u>

On August 29, 2005, plaintiff **ABNER CLARK MACKEY** filed a *pro se* document entitled "Leave to Amend - In Order to Add Defendants and to more Accurately Comply with F.R.C.P. 8," in civil action number 7:98-cv-93(CAR). On January 25, 2006, Judge C. Ashley Royal denied plaintiff's motion to amend and directed that it be refiled as a new action. Upon review of plaintiff's newly converted lawsuit, the undersigned found that plaintiff had more than three previous lawsuits dismissed as frivolous under 28 U.S.C. § 1915(g), and informed plaintiff that unless he paid the entire \$250.00 filing fee within twenty days, his new case would be dismissed. Plaintiff responded by filing a "Motion to Dismiss without Prejudice" (Tab # 6).

Under Rule 41 of the Federal Rules of Civil Procedure, a plaintiff has the absolute right to dismiss his action by filing a notice of dismissal "at any time before service by the adverse party of an answer or of a motion for summary judgment." Because no defendant has filed an answer or other responsive pleading in this case, plaintiff may dismiss his case. Accordingly, plaintiff's motion is hereby **GRANTED** and the above-captioned action is deemed **DISMISSED**

WITHOUT PREJUDICE.

SO ORDERED, this 15th day of February, 2006.

s/ **Hugh Lawson**
HUGH LAWSON
UNITED STATES DISTRICT COURT

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